

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant has rewritten claim 19, and added new claims 21-37. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks.

Claim 19 was rejected under sec. 102e as being anticipated by Call et al. The Call reference is based on an application filed October 19, 1999, which claims the benefit of priority to a provisional patent application filed on October, 20, 1998.

Applicant notes that the subject application is a divisional application of U.S. Patent Application 09/289,402 filed April 1999, which claims the benefit of priority to U.S. Provisional application 60/107,236 filed November 5, 1998 and Provisional application 60/081,324 filed April 10, 1998. Clearly, the two provisional patent applications of the subject invention have an effective date well before the earliest effective date of the Call et al. reference. Thus, this reference is NOT EFFECTIVE as PRIOR ART against the subject invention. Thus, removal of the Call et al reference is respectfully requested.

Claim 20 was rejected under sec. 103 as being unpatentable over Call et al. in view of Ritchie '885. As noted above, the Call et al. reference is NOT EFFECTIVE AS PRIOR ART AGAINST THE SUBJECT INVENTION. The Ritchie reference does not overcome the deficiencies to Call et al.. As admitted by the examiner in the office action, Ritchie by itself does not describe, teach, nor suggest all of the features of the claims. Also, applicant notes that the parent application on which the subject application is a divisional application, has matured into U.S. Patent 6,334,936, and that the parent

application lists the Ritchie reference as prior art evaluated during the examination process.

Applicant notes the USPTO procedure requires examiner's to follow the examination results of previous examiners. Since the parent application includes similar claimed features, applicant should be entitled to have the similar claimed features allowed in subsequent applications. MPEP section 706.04 states that full faith and credit should be given to the action of a previous examiner unless there is clear error in the previous action or knowledge of other prior art. The examiner should not take an entirely new approach or attempt to reorient the point of view of a previous examiner in mere hopes of finding something. Amgen Inc. v. Hoechst Marion Roussel, Inc. 126 F. Supp. 2d 69, 139, 57 USPQ 2d 1449(D-Mass 2001).

Applicant contends the references cannot be modified to incorporate the features of subject claims 18-37 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination

In view of the foregoing considerations, it is respectfully urged that claims 18-37 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney below

Respectfully Submitted;



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